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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,746	02/15/2001	Robert G. Stevens	3660P045	2175

7590 06/19/2006

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EXAMINER

KESACK, DANIEL

ART UNIT PAPER NUMBER

3624

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/783,746	Applicant(s) STEVENS, ROBERT G.	
	Examiner Dan Kesack	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/24/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Amendment filed March 24, 2006 has been entered and fully considered. Original claims 3, 9, and 19, and amended claims 1, 2, 4-8, 10-18, and 20 are currently pending. The rejections are as stated below.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 2, 9, 16, 18-20 remain rejected under 35 U.S.C. 102(b) as being anticipated by Giovannoli, U.S. Patent No. 5,758,328, as cited in the prior Office action.
4. Claims 1, 7-10 remain rejected under 35 U.S.C. 102(b) as being anticipated by Walker, U.S. Patent No. 5,794,207, as cited in the prior Office action.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claim 3 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli in view of Walker, U.S. Patent No. 6,415,264, as cited in the prior Office action.
7. Claims 4-6, 11 and 12 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli, as cited in the prior Office action.
8. Claims 13 and 14 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli, in view of Ausubel U.S. Patent No. 5,905,975, as cited in the prior Office action.
9. Claims 15 and 17 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli in view of Godin, U.S. Patent No. 5,890,138, as cited in the prior Office action.

Response to Arguments

10. Applicant's arguments filed March 24, 2006 have been fully considered but they are not persuasive.

Regarding Applicant's argument that Giovannoli fails to teach automatically selecting potential bidders for an auction in response to good or service identified in the buyer's request, Giovannoli teaches a computerized system "selecting one or more appropriate vendors to receive the buyer's request for quotation based on filter conditions, set by the buyer" (column 3 lines 61-64). Further, Giovannoli teaches said filter conditions being "included in the RFQ" (column 5 lines 18-19).

Regarding Applicant's argument that Walker '207 fails to teach automatically selecting potential bidders for an auction in response to good or service identified in the buyer's request, Walker teaches using the description of goods or services, as entered by the user, to automatically electronically mail a buyer request to an individual or to a group associated with the goods or services requested. Although Walker does not specifically describe the step of "selecting", the step is inherently performed when system of Walker electronically mails the requests to specific sellers within the subject area of the request (column 18 lines 25-33).

Regarding claims 1, 18, and 20, and Applicant's argument that Giovannoli and Walker '207 each fail to teach the additional limitations of selecting potential bidders *for an auction* (emphasis added), and conducting an auction, Examiner regards the methods set forth by both Giovannoli and Walker as auction processes. Examiner respectfully points out that the sale of a good or service whereby no sale price is set, but rather is determined by one or more parties bidding on the price, is inherently an auction.

11. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

12. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

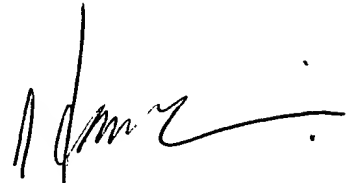
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kesack whose telephone number is 571-272-5882. The examiner can normally be reached on M-F, 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'H. M. Kazimi', with a long horizontal stroke extending to the right.

HANI M. KAZIMI
PRIMARY EXAMINER